

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

MAXUS REALTY TRUST, INC.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 06-0750-CV-W-ODS
	)	
RSUI INDEMNITY COMPANY,	)	
	)	
Defendant.	)	

**MOTION FOR PARTIAL SUMMARY JUDGMENT**  
**ON BEHALF OF RSUI INDEMNITY COMPANY**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, and for the reasons more fully set forth in their accompanying Suggestions in Support, RSUI Indemnity Company (“RSUI”) moves this Honorable Court to enter an order granting partial summary judgment in favor of RSUI ordering that the RSUI policy excludes coverage for loss or damage caused by flood; that any damages to the Waverly Apartments caused exclusively, concurrently or in any sequence of the loss by flood be excluded from coverage under the RSUI policy; that Maxus Realty Trust, Inc.’s claim for hurricane damage to buildings located at their Waverly Apartments location be limited to the latest Statement of Values on file with RSUI; that Maxus Realty Trust, Inc. is only entitled to payment on an actual cash value basis for the damages to the Waverly Apartments; and that RSUI is entitled to a set-off of any payments made by First Specialty Insurance Company and Hartford Fire Insurance Company to Maxus Realty Trust, Inc. in connection with the damages sustained at the Waverly Apartments.

Respectfully submitted,

CLAUSEN MILLER P.C.

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and

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ATTORNEYS FOR DEFENDANT  
RSUI INDEMNITY COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of October, 2007, the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which sent notification of such filing to:

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ATTORNEYS FOR PLAINTIFF  
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s/Douglas S. Beck  
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